



TOWN OF DARTMOUTH
Office of the Zoning Board of Appeals
400 Slocum Road, Dartmouth, MA 02747
(508) 910-1868

Board Members

Jacqueline Figueiredo, Chairman
Halim Choubah, P.E., Clerk
Robert Gardner, Member

MINUTES

DATE OF HEARING: August 4, 2015
CASE: SPECIAL PERMIT
CASE NO: 2015-17
PETITIONER/APPLICANT: Empire Management Corporation
PROPERTY OWNER: Empire Management Corporation
REPRESENTATIVE: James Almonte RLA, Waterman Design Associates
SUBJECT PROPERTY: 361 State Road
DISTRICT: General Business
MAP: 167 LOT(S): 49,50,51,52
BRISTOL COUNTY
REGISTRY OF DEEDS: BOOK: 8939 PAGE: 141

RECEIVED
2015 AUG 26 AM 9 34
DARTMOUTH TOWN CLERK

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah and Robert Gardner
ASSOCIATE MEMBERS: Dr. Rahim Aghai and Alvin Youman, Esq.
Principal Clerk, Michelle Vieira
ABSENT: Michael Medeiros, Esq.

ALSO PRESENT: Jim Almonte, Waterman Designs and Brian Lafferty, Empire Management Corporation

6:53 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, August 4, 2015 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Empire Management Corporation who is seeking a Special Permit to install approximately 69 square feet of signage on the front facade of the recently renovated auto dealership building. The property is located at 361 State Road in the General Business District and identified on Assessor's Map 167 as Lots 49, 50, 51, 52. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 3B.203 Expansion of Non-Conforming Structures for Uses Other Than One or Two Family Structures, Section 11.503 Signs)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, July 15, 2015 and Wednesday, July 22, 2015.

ABUTTER'S LIST: Robert Gardner motioned to waive the reading of the abutter's list, seconded by Halim Choubah. Motion passed unanimously. A certified abutter's list is available for review in the office of the Zoning Board of Appeals.

DOCUMENTS ON FILE

- Special Permit application time stamped with the Town Clerk on July 2, 2015
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- Letter from Planning Director dated July 28, 2015
- Photos
- Site Plans by Pattison Sign Group for Empire Management Corporation dated March 31, 2015

Chairman Figueiredo read into the record a letter from Planning Director, John P. Hansen, Jr., dated July 28, 2015.

Chairman Figueiredo invited the Petitioner or representative to present the case.

Jim Almonte of Waterman Designs stated that the existing auto dealership at 361 State Road, Colonial South Chevrolet Dealership underwent renovations to bring the dealership up to Chevrolet's branding standards. Mr. Almonte stated that the existing sign on the front façade of the building of approximately 60 square feet was in conformance with the By-Law 11.503 prior to the zoning change which limited the size to 32 square feet. This action made the existing sign pre-existing non-conforming. The Applicant submitted a building permit for signage and it was suggested by the Zoning Enforcement Officer to apply for a Special Permit because of the pre-existing non-conforming situation. The proposed sign is approximately 69 sq. ft., 9 sq. ft. larger than the existing sign but still under the 10% of the unglazed area of that façade per Section 11.503. The additional 9 sq.ft. does not adversely affect the neighborhood or derogate from the intent of the Zoning By-Law.

Chairman Figueiredo invited any board members to ask questions.

Dr. Rahim Aghai asked the purpose of the change.

Mr. Almonte stated that Chevrolet has standards and the Applicant has to meet those standards, and that the larger sign is only a slight increase over the existing sign.

Robert Gardner asked if the sign will be lit, and expressed concerns regarding signs that are lit on Route 6.

Mr. Lafferty stated it's a back lit light with no light shining on it.

Chairman Figueiredo suggested that if this had not met the lighting requirements, the Zoning Enforcement Officer would have commented.

No further questions from Board Members.

Chairman Figueiredo invited public comments regarding this project.

No comments from the public.

The Board made findings which are listed in the Decision.

The Board made proposed conditions which are listed in the Decision.

Chairman Figueiredo asked for a motion to close the public hearing.

Robert Gardner made the motion to close the public hearing. The motion was seconded by Halim Choubah. The motion passed unanimously.

Halim Choubah made the motion to approve the SPECIAL PERMIT Case # 2015-17 in accordance with the Board's stated findings and proposed conditions. The motion was seconded by Robert Gardner. The motion passed unanimously.

Chairman Figueiredo asked for a motion to close the hearing.

Robert Gardner made the motion to close the hearing. The motion seconded by Halim Choubah. The motion passed unanimously.

Robert Gardner made the motion to adjourn. The motion was seconded by Halim Choubah. The motion passed unanimously.

7:35P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk
Zoning Board of Appeals

Date of approval: 8/25/15



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Board Members

Jacqueline Figueiredo, Chairman
Halim Choubah, P.E., Clerk
Robert Gardner, Member

MINUTES

DATE OF HEARING: August 4, 2015
CASE: VARIANCE
CASE NO: 2015-12
PETITIONER/APPLICANT: Joseph and Maria Medeiros
PROPERTY OWNER(S): Joseph and Maria Medeiros
REPRESENTATIVE(S): Christian Farland, Thompson Farland Engineering
SUBJECT PROPERTY: 55 Stoneledge Road
DISTRICT: General Residence
Map: 123 Lot(s): 218 & 219
REGISTRY OF DEEDS: Book: 11225 Page: 276

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ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E. and Robert Gardner

ASSOCIATE MEMBERS: Dr. Rahim Aghai, Alvin Youman, Esq.

Principal Clerk Michelle Vieira

ABSENT: Michael Medeiros, Esq.

ALSO PRESENT: Christian Farland of Thompson Farland Engineering, Kevin Medeiros, Joseph Medeiros and Scott & Kim Raposa

6:30 PM Chairman Figueiredo opened the hearing

Chairman Figueiredo began the meeting reminding the Board and audience that this case is being continued from July 21, 2015. The abutter's list and Planning Director's recommendations were read at the previous hearing.

Chairman Figueiredo invited the Petitioner or Representative to present the case.

Christian Farland President of Thompson Farland Engineering explained to the Board that the Petitioners purchased Lot 218 & Lot 219 in November 2014. The structure that was on the property when purchased was demolished and a new structure is being built on Lot 219. Lot 219 consists of 10,000 sq. ft. The Petitioners are proposing to convey Lot 218 to the abutters, Scott and Kim Raposa, which would make the Raposa's lot (Lot 216) rectangular as opposed to the L shape that it is currently. Mr. Farland also stated the hardship is the shape of the lot (Lot 216) which makes it unusable and a financial hardship on the Mr. Medeiros. Mr. Farland continued by stating the surrounding properties are made up of 5,000 to 15,000 sq. ft. lots.

Mr. Farland referred to the brief that Mr. Ferreira (former Engineer on this case) submitted stating “desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law”. Mr. Farland also stated that none of the abutters are in opposition of this petition.

Chairman Figueiredo asked any Board Members if they had questions.

Dr. Rahim Aghai questioned; if this variance is granted making Lot 216 20,000 sq. ft., what would stop the Raposa’s from coming back before us asking to sub-divide their lot into two 10,000 sq. ft. lots?

Mr. Farland responded by stating that the Raposa’s are willing to put a restriction on the deed stating that the lot would not be sub-divided.

Chairman Figueiredo stated that it appears that the Raposas are making this request, but the application is in Mr. Medeiros’s name. The hardship is of concern because Mr. Medeiros does not have an L-shaped lot, his lot is rectangular. Also, although the deed states Parcel A & Parcel B, the building permit was issued on 15,000 sq. ft. It appears the lots were merged in order to get the building permit. She stated that what the Petitioners are proposing is to make a conforming lot into a non-conforming lot. Chairman Figueiredo stated that she doesn’t see a hardship, the hardship is with the Raposa’s, but they are not the Petitioners.

Chairman Figueiredo invited public comments.

Scott Raposa stated the reasons why he wanted Lot 218 conveyed to his Lot (216).

Kevin Medeiros, son of the Petitioner, stated he sees this as just a realigning of lot lines. He stated there is a hardship: the Petitioner downsized because he cannot take care of the yard, the landscaping and with the extra lot it would be too much for him. Also, the added tax bill is a financial hardship. Mr. Medeiros stated it meets all of the requirements of Chapter 40 Section 10. He continued by stating that the intent of the by-law was not to create congestion, and the Petitioner is not derogating from the intent of the by-law, he is just attempting to realign the lot lines. Mr. Medeiros mentioned that there were Board Members who weren’t at the last meeting but are here tonight. Also, there were abutters who attended the last meeting who are in favor of this petition.

Chairman Figueiredo stated when the property was purchased the lot could have been conveyed to the Raposa’s. The Petitioner could have come before the Board for a Variance regarding Lot 218 which had a home on it and was a non-conforming lot. Chairman Figueiredo stated that what is being asked is to change a conforming lot into a non-conforming lot. Chairman Figueiredo informed Mr. Medeiros that when a Board Member misses a meeting, he/she is required to listen/watch the cd from said meeting. Also, that Member is required to sign a form stating that he/she did listen/watch the cd from missed meeting, which is called “The Mullin Rule”.

Chairman Figueiredo asked the Board Members if they had any questions.

Halim Choubah agreed with Chairman Figueiredo that it’s difficult to change a conforming lot into a non-conforming lot and for the eight years he has been on the Board, the Board has been consistent. Because this is a zoning issue, we are dealing with Chapter 40 Section 10 and meeting the statutory guidelines would be difficult to do regarding the hardship.

Halim Choubah made a suggestion to give the Applicant the option of withdrawing the petition.

Chairman Figueiredo explained that the difference between the Petitioner asking to withdraw without prejudice, is, if something were to change regarding this parcel they could come back, but if the petition is denied, the Petitioner would have to wait two (2) years.

Mr. Farland made the suggestion that Town Counsel look at the case laws that were provided in Mr. Ferreira's Variance Request.

Chairman Figueiredo informed Mr. Farland that she did look at the cases cited but doesn't feel they would make a difference, also it's up to the Petitioner to fully explain the applicability cases listed in Mr. Ferreira's brief. Chairman Figueiredo asked the Board Members their thoughts. Halim Choubah agreed with the Chairman.

Mr. Medeiros asked for clarification on why the hardship cannot come from an abutter. He stated that Mr. Raposa is the applicant, that Mr. Raposa hired Mr. Farland.

Chairman Figueiredo informed Mr. Medeiros that Mr. Raposa is not listed on the application as the Applicant.

Mr. Farland questioned, when the building permit was taken out why were the lots merged, they had always been separate.

Chairman Figueiredo replied that on the Registry of Deeds they are listed as Parcel A and Parcel B, and the building permit was based on 15,000 sq. ft.

Alvin Youman viewed the deeds and confirmed that the lots had been merged.

The Board made findings which are listed in the Decision.

No further comments.

Chairman Figueiredo asked for a motion to close the public hearing.

Robert Gardner made the motion to close the public hearing. The motion was seconded by Halim Choubah. The motion passed unanimously.

Robert Gardner made the motion to deny the Petition in accordance with the Board's stated findings. The motion was seconded by Halim Choubah. The motion passed unanimously.

Robert Gardner made the motion to close the hearing on Case # 2015-12. The motion was seconded by Halim Choubah. The motion passed unanimously.

7:15 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: _____



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ADMINISTRATIVE MINUTES

DATE OF HEARING: August 4, 2015

6:00 P.M. Chairman Jacqueline Figueiredo opened the meeting; Pledge the Flag, Moment of Silence

PRESENT: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E., and Robert Gardner
Principal Clerk Michelle Vieira

ASSOCIATE MEMBER(S) Dr. Rahim Aghai and Alvin Youman, Esq

ABSENT: Michael Medeiros Esq.

Chairman Jacqueline Figueiredo announced next meeting date for the Zoning Board of Appeals will be August 25, 2015 at 6:00 PM Room 304 at the Town Hall.

Chairman Jacqueline Figueiredo welcomed Attorney Alvin Youman, Esq the newly appointed Associate Member.

ADMINISTRATIVE MINUTES:

Halim Choubah made the motion to approve the Administrative Minutes of July 21, 2015 as amended. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

The following Hearing Minutes were approved as amended:

- Minutes of July 21, 2015 Variance Case #2015-12-55 Stoneledge Road-Continued
- The motion was made by Robert Gardner, seconded by Halim Choubah to approve the minutes as amended. The motion passed unanimously.
- Minutes of July 21, 2015 Variance Case # 2015-15 -54 Donald Street-Approved
The motion was made by Robert Gardner, seconded by Halim Choubah to approve the minutes as amended. The motion passed unanimously.
- Minutes of July 21, 2015 Variance Case #2015-16-Leonard Avenue-Approved
The motion was made by Halim Choubah, seconded by Robert Gardner to approve the minutes as amended. The motion passed unanimously.

Chairman Jacqueline Figueiredo stated the minutes of Case # 2014-42 will be deferred until August 25, 2015.

Chairman Figueiredo deferred the revisions of the Rules and Regulations until August 25, 2015.

Chairman Figueiredo also explained to the Board the reasons why the Director of Development will be taking a more active role in the Zoning Board of Appeals Office.

The following Cases were heard August 4, 2015:

- Variance Case # 2015-12- 55 Stoneledge Road-(Continued from July 21, 2015)
- Special Permit Case # 2015-17 361 State Road

Michelle Vieira, Principal Clerk

For the Zoning Board of Appeals

Date of Approval: _____